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Central Administrative Tribunal  
Principal Bench

O.A.No.645/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 21st day of February, 2003

1. Vijay Kumar s/o Shri Ramoo  
Farash/Mali (part time casual labour)  
— Railway Mail Service (RMS), Jhansi  
r/o H.No.41 Top-khana Bazar  
Jhansi-Cantt.
2. Leel Chand Raikwar  
s/o Shri Chhotey Lal Raikwar  
Attendant Inspection Quarter (Part time casual labour)  
Railway Mail Service-Jhansi  
r/o 11/6 Panna Lal Compound  
Sadar Bazar-Jhansi. .. Applicants

(By Advocate: Sh. D.P.Sharma)

Vs.

1. Union of India through  
Secretary  
Ministry of Communication  
Department of Posts  
New Delhi.
2. The Postmaster General  
Agra Region, Agra.
3. The Superintendent  
Railway Mail Service  
"X" Division-Jhansi. .. Respondents

(By Advocate: Sh. S.Mohd. Arif)

O R D E R (Oral)

By Shri Shanker Raju, M(J):

Applicants, two in number, have sought temporary status and regularisation after waiving of sponsorship from the Employment Exchange.

2. Applicant No.1 was engaged as Part-time Farash for 4 hours per day from 8.8.1995 to 6.10.1997. Thereafter, the working hours had been raised to 6 hours per day w.e.f. 7.10.97 to 10.4.2001. Subsequently, again the working hours have been raised to 7 hours as such applicant No.1 is working since 11.4.2001 as Farash/Mali for 7 hours per day.

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3. Applicant No.2 initially engaged as Part time Waterman from 18.3.1997 and worked upto 13.1.2001 for six hours per day and thereafter utilised him as an Attendant inspection quarter RMS for 6 hours per day.

4. It is stated that both applicants are part time casual labourers. Similarly situated persons, in the same Division of RMS, have been regularised as Mali Men (Group 'D'), giving rise to the present OA.

5. Sh. M.L.Sharma, learned counsel contended that denial of similar benefits to applicants on the ground that they have not been sponsored from Employment Exchange cannot be countenanced as this condition has been waived in OA 1789/99 (Anil Kumar & Ors. v. Union of India & Ors) and O.A. 1792/99 (Ganesh Shanker Saini v. Union of India & Others), decided on 1.5.2000 and on the basis of decision of the Apex Court in Excise Superintendent, Malkapatnam (A.P) v. K.B.N.Visweshwara Rao and Others, 1996(6) Scale 670. Further relying upon the decision of Full Bench in OAs 912/92 and 961/92 Sakhubai and N.J.Ramulu vs. Secretary, Ministry of Communication, etc., decided on 7.6.1993, it is stated that applicants are entitled for temporary status and regularisation.

6. Shri M.L.Sharma relied upon the decision in OA 1789/99 to contend that as per departmental rules, on completion of 480 days of service in the block of two years if worked as part-time casual labour, they are entitled after waiving of requirement of Employment Exchange and subject to literacy test and thereafter to be considered as per the eligibility conditions and Rules for regularisation against Group 'D' posts. According to applicants, their case, in

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all fours, covered by the decision of this Court in OA 1789/99 supra.

7. Shri M.L.Sharma further contends that applicants have applied earlier for literacy test for regularisation as Mali-Men but were not permitted to appear on account of non-sponsorship through Employment Exchange which is an impediment and placing further relaxation of a decision of Principal Bench in OA 1074/97 in Summer & Others v. Union of India & Others, decided on 3.2.1998, it is contended that the aforesaid decision covers the case of applicant.

8. On the other hand, respondents' counsel Sh. S.M.Arif, strongly rebutting the contentions and stated that applicants are not eligible and have not been appointed with the Department on any post but have managed to work as part-time C.P. Farash from the year 1995 as a stop gap arrangement and as there has been a ban of filling up of the part time posts, there is no question of initiation of any recruitment process.

9. Shri Arif, learned counsel for respondents further contended that applicants had never worked 8 hours in a day for a period of 480 days in a block of two years continuously, to entitle them to be restored temporary status and further consideration of regularisation. In so far as the benefit of OA 1789/99 is concerned, it is stated that applicants therein do not fulfil the eligibility conditions and were also not allowed to literacy test.

10. I have carefully considered the rival contentions of parties and perused the material on record.

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11. It is not disputed that applicants had been working for long years on part time basis. In view of respondents' own rules and instructions which have been taken cognizance of in OA 1789/99 ibid those who are working on part-time and had completed 480 days in a block of two years are to be subjected to the literacy test after waiving of requirement of sponsorship through Employment Exchange. As applicants have worked for the requisite period, their cases are to be considered as per Rules after subjecting them to literacy test for accord of temporary status and regularisation against Group 'D' posts. In my considered view the aforesaid decision in all fours covers the case of applicants and they are entitled to be extended the benefit of the same.

12. In the result, for the foregoing reasons, OA is disposed of with direction to respondents to allow applicants to appear in the departmental literacy test as and when held subject to their fulfilment of other eligibility conditions and thereafter consider them for regularisation in accordance with Departmental rules and instructions. No costs.

S. Raju

(Shanker Raju)  
Member(J)

/rao/